

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-3-E – ORDER NO. 2005-440  
AUGUST 25, 2005

IN RE: Duke Power – Annual Review of Base	)	ORDER GRANTING
Rates for Fuel Costs	)	MOTIONS FOR
	)	CONFIDENTIAL
	)	TREATMENT

This Order is issued to approve the Motions of Duke Power, a division of Duke Energy Corporation, (“Duke” or the “Company”) that the Public Service Commission of South Carolina (“Commission”) treat specific material filed in the present proceeding as confidential. Duke requests confidential treatment of certain materials contained in the Company’s responses to the Continuing Data Request of the Office of Regulatory Staff, in Company witness Janice D. Hager’s testimony, and in Duke’s responses to the Second Data Request of the South Carolina Energy Users Committee. Duke claims that certain information contained in the Company’s Responses and in Ms. Hager’s testimony is confidential and therefore requests the Commission’s approval of confidential treatment.

Pursuant to the Commission Order No. 2005-226, “Order Requiring Designation of Confidential Materials”, issued May 6, 2005, Duke delineates in its Motions the material for which the Company’s seeks confidential treatment and files such information in a separate package clearly marked “confidential.” Additionally, pursuant to Order No. 2005-226, Duke files redacted non-confidential versions of the materials.

A review of the materials in question establishes that the materials do provide detailed information concerning Duke's business and practices which are sensitive. The South Carolina Freedom of Information Act ("FOIA") allows exemption from disclosure proprietary business information that meets a definition of "trade secrets." S.C. Code Ann. Section 30-4-40(a)(1) states that matters which may be exempt from FOIA include: "(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes....Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing studies, and evaluations and other materials which contain references to potential customers, competitive information or evaluation." We find that the information for which Duke seeks protection as confidential falls within this definition of materials which may be exempted from disclosure under FOIA.

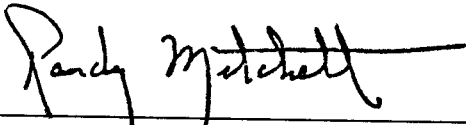
Because the Commission finds that the information filed by Duke is proprietary and meets the definition of "trade secrets" as defined under FOIA, the Commission grants the Motions of Duke.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

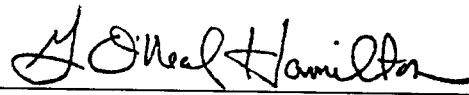
1. Confidential materials clearly delineated in its Motions and filed with the Commission by Duke Power, a division of Duke Energy Corporation, in response to Data Requests propounded by the Office of Regulatory Staff and the South Carolina Energy Users Committee and confidential material clearly delineated in the Company's Motions and filed by Duke witness Janice D. Hager in this docket shall be declared confidential and shall be afforded confidential treatment.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
\_\_\_\_\_  
Randy Mitchell, Chairman

ATTEST:

  
\_\_\_\_\_  
G. O'Neal Hamilton, Vice Chairman

(SEAL)